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In re Application of
TODA, Haruki
U.S. Application No.: 10/507,475
PCT No.: PCT/JP2003/000155
Int. Filing Date: 10 January 2003
Priority Date: 04 April 2004
Attorney Docket No.: 89165.0017
For: PHASE-CHANGE MEMORY DEVICE

DECISION

This decision is in response to the papers filed on 06 August 2007 which are treated as a renewed petition to withdraw the holding of abandonment.

BACKGROUND

On 25 June 2007, a decision dismissing applicants' petition to withdraw a holding of abandonment based upon nonreceipt of an office action was mailed. Applicants were given two months to respond.

On 06 August 2007, applicants filed the renewed petition which was accompanied by, *inter alia*, a supplemental declaration of Troy M. Schmelzer and a copy of his law firm's docket report of all open matters from 15-17 April 2005.

DISCUSSION

The showing required to establish the failure to receive an Office communication consists of: (1) a statement from the practitioner declaring that the Office communication was not received by the practitioner; (2) a statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and, (3) a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioners' statement. Items (1) and (2) were completed in the original petition.

Applicant submitted the computer mail log for the law firm in the original petition filed 31 May 2007. However, the prior decision noted that applicants must also provide a copy of the docket records for the date upon which a response to the Notification of Missing Requirements was due (i.e., 17 April 2005) to satisfy item (3) above.

In the renewed petition, applicants submitted the required evidence in the form of a copy of the law firm's docket report during the period from 15-17 April 2005. A review of this evidence shows that the Form PCT/DO/EO/905 was not received. This is sufficient to meet the docket record requirement noted in item (3) above.

Applicants have now met all of the requirements required to establish nonreceipt of an Office action.

CONCLUSION

In view of the above, the renewed petition to withdraw the holding of abandonment is GRANTED.

The Notice of Abandonment mailed 08 May 2006 is hereby VACATED.

This application is being forwarded to the United States Designated/Elected Office for further processing.

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